

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Stephen J. Mordfin, AICP, Case Manager  
Joel Lawson, Associate Director Development Review  
**DATE:** April 24, 2012  
**SUBJECT:** BZA Case 18346 – 900 M Street, S.E.

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**I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following special exception:

- §§ 822.16 - 822.19, Animal Boarding

and **approval** the following variances:

- § 801.7(a)(3), Animal shelters shall not abut an existing residential use, and the proposed animal shelter would abut existing residential uses; and
- § 801.7(a)(4)(D), External yards are required to be 200 feet from a residential use, the proposed external yard would be 53 feet from a residential use.

Subject to the following conditions:

1. The approval shall be for a period of five (5) years.
2. The applicant shall maintain the existing concrete masonry building to absorb sound and shall utilize industry standard flooring sealants to help eliminate bacteria and minimize odors by preventing waste from penetrating into the concrete floor.
3. All windows and doors within the building shall be kept closed.
4. The applicant shall place all solid animal waste from both indoor and outdoor areas in biodegradable bags and in closed waste disposal containers. The applicant shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least three times per week.
5. The applicant shall wash all indoor floors with a water/chemical mixture that breaks down urine odor and the liquid mixture will be captured by a drainage system.
6. The applicant shall control odor by installing HEPA filtration systems for all air conditioner units in all day care areas throughout the building. The units and vents shall be maintained and cleaned by a professional company.
7. With respect to the outdoor training area located in the parking lot adjacent to M Street, S.E:
  - a. No animals shall be permitted to enter between the hours of 5:00 p.m. and 9:00 a.m.;
  - b. It shall be enclosed with fencing having a minimum height of eight feet and constructed of solid or opaque materials with noise absorbing characteristics;
  - c. No more than three animals shall be permitted at any one time;
  - d. Access shall be from within the building only;



- e. The enclosed area shall measure approximately 19 feet in width by approximately 26 feet in length;
- f. It shall be washed daily with a water/chemical mixture that breaks down urine odor, and the liquid mixture used to clean the outdoor training shall be captured to prevent its flow outside of the enclosed area.
- g. The applicant shall create within sixty days of the issuance of a BZA order to approve the application an on-going Liaison Committee to address any neighborhood concerns regarding the operation of the use. The Committee shall be composed of a representative from the applicant and a neighborhood representative selected by the Single Member District (SMD) Commissioner for the ANC in which the property is located. The applicant and the SMD Commissioner may change their designated representatives upon written notice to the other. Operation of the facility shall be reviewed by the Committee no less than six months and one year from the effective date of the Certificate of Occupancy issued as a result of the BZA order approving the application.

## **II. LOCATION AND SITE DESCRIPTION**

Address	900 M Street, S.E.
Legal Description	Square 952, Lot 34
Ward	6
Lot Characteristics	Unusually shaped corner lot fronting on three streets with no alley access
Zoning	C-M-1 – low-bulk commercial light manufacturing industrial zone
Existing Development	One and two-story commercial building divided into three spaces with two off-street parking areas
Adjacent Properties	Residential, office and retail uses
Surrounding Neighborhood Character	Mixture of residential, commercial, office and government uses

## **III. APPLICATION IN BRIEF**

The applicant proposes to establish an animal boarding use, including pet grooming and sale of pet supplies, within a one and two-story commercial space on the west side of the subject property. Pet grooming is proposed as an accessory use. Sale of pet supplies is permitted as a matter of right. On the east side of the property the applicant proposes to locate an animal shelter, including an external yard on the east side of the building, within the existing parking lot. Separating the two animal boarding and animal shelter uses would be an existing pizza restaurant that is not a part of this application.

The three uses are all located on the same lot. Parking for the two animal uses would be located within an existing parking lot on the east side of the property, accessible from M Street, S.E. The parking area on the north side of the lot, accessible from Potomac Avenue, would serve the pizza restaurant and would also contain the waste bins for the animal shelter and animal boarding uses. The applicant proposes to inform its business associates that they should park within the lot only, and not on surrounding neighborhood streets. Clients would be able to park on 9<sup>th</sup> Street in front of the business as permitted for the pick-up and drop-off animals.

An external yard measuring nineteen by twenty-six feet (494 square feet) would be created within the parking area on the east side of the lot, adjacent to the building. Access to this yard would be from within

the building only, and it would be screened with an eight-foot high opaque fence. No more than three animals would be permitted within the yard at a time, and only between the hours of 9:00 a.m. and 5:00 p.m.

#### **IV. ZONING REQUIREMENTS and REQUESTED RELIEF**

<b>C-M-1 Zone</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Height § 400	40 ft. & 3 stories max.	1 & 2 stories	1& 2 stories	None required
Lot Width § 401	None prescribed	164.25 ft.	164.25 ft.	None required
Lot Area § 401	None prescribed	13,766 SF	13,766 SF	None required
Floor Area Ratio § 401	3.0 max.	< 1.0	<1.0	None required

#### **V. OFFICE OF PLANNING ANALYSIS**

##### **a. Animal Shelter**

Animal shelters are permitted as a matter of right within the C-M-1 district, subject to a list of criteria. The subject application is not in conformance with two of those criteria, §§ 801.7(a)(3) and 801.7(a)(4)(D), and has requested variance relief from those provisions, as discussed below.

**Variance Relief from § 801.7(a)(3),** Animal shelters shall not abut an existing residential use or a Residence District. The proposed animal shelter would abut existing residential uses.

##### **i. Exceptional Situation Resulting in a Practical Difficulty**

The subject property is divided into three commercial spaces, all located on one lot that abuts existing residential uses to the east. Therefore, each of the three existing commercial spaces abuts an existing residential use, whether separated from the residential uses by other commercial spaces or not. Due to the configuration of the lot it is also not possible to locate the animal shelter on the west side of the lot, away from the residential uses. The absence of open space on that side of the lot results in the need to place the animal shelter on the east side of the lot so that it could have access to an external yard. Animal shelters, unlike animal boarding, need outdoor space because the animals live there and have no other access to the outdoors.

##### **ii. No Substantial Detriment to the Public Good**

A portion of the interior commercial space that would be improved as the animal shelter would abut the rear yard of an adjoining residential use, as would the parking lot that would be used by the animal shelter. No doors to the proposed use would open onto the residentially used properties. The building is of masonry construction, making it soundproof. OP recommends that the windows and doors remain closed to conceal noise and odors to the extent possible. With the exception of the parking of vehicles associated with the use, the parking lot would not be actively used for shelter purposes. Therefore, there should be no substantial detriment to the public good.

##### **iii. No Substantial Harm to the Zoning Regulations**

The granting of the variance would not result in substantial harm to the Zoning Regulations because it would allow for the location of an animal shelter on an unusually shaped lot within an industrial zone district.

**Variance Relief from § 801.7(a)(4)(D),** No part (of an outdoor run or external yard) shall be located within two hundred (200) feet of an existing residential use or Residence District. The applicant proposes to locate an external yard 53 feet from a residentially used property.

**i. Exceptional Situation Resulting in a Practical Difficulty**

The subject property abuts residential uses on the east side only, where the animal shelter and its external yard would be located. The parking area on the north side of the property is used by the pizza restaurant for parking and is not available to the applicant for the external yard. The green area adjacent to the lot on the west side is located outside of the property and within public space. Therefore, the only area available for the external yard is within the parking area on the east side of the lot.

**ii. No Substantial Detriment to the Public Good**

To minimize the impact of the external yard on abutting residential uses, the applicant has located the yard as far as possible from those uses and designed it in conformance with all other applicable criteria for external yards, including fence height and type. The applicant also proposes more restrictive hours than otherwise permitted for the use of an external yard, 9:00 a.m. to 5:00 p.m. only, and not the less restrictive 8:00 a.m. to 8:00 p.m. as permitted under § 801.7(a)(3).

**iii. No Substantial Harm to the Zoning Regulations**

The hours the applicant proposes to the external yard would coincide with regular work hours when most people would not be expected to be at home. The required separation of external yards from residential uses is intended to minimize any disturbance to those residences. Although the applicant proposes to reduce the distance from 200 to 53 feet, the reduction of the hours of operation of the external yard would serve to minimize any impact the reduction in distance would have on those residential uses.

**b. Animal Boarding**

**Special Exception Relief pursuant to §§ 802.22 through 802.24, Animal Boarding**

- i.** 802.22 *The animal boarding use shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, or waste.*

The proposed use would be located within a masonry building and therefore capable of soundproofing the use. The floors of the boarding use would be sealed and a HEPA filtration system would be installed in the building to absorb odor from within the building. Animal waste would be placed in bags and stored in closed waste disposal containers until pick-up by a qualified waste disposal company three times per week.

802.23 *The animal boarding use shall not abut a Residence District.*

The use would not abut a residence district.

802.24 *External yards or other exterior facilities for the keeping of animals shall not be permitted.*

No external yard or other exterior facility is proposed for the keeping of animals associated with the animal boarding use.

**ii. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?**

The proposal would be in harmony with the Zoning Regulations and the Zoning Maps, as the proposed animal boarding use would be in conformance with the criteria for the granting of a special exception, provided the windows and doors are kept closed to prevent noise from emanating from the building.

**iii. Would the proposal appear to tend to affect adversely, the use of neighboring property?**

The proposal would not tend to affect adversely the use of neighboring property, provided the applicant keeps all windows and doors closed to help prevent noise from emanating from the building.

**VI. COMMENTS OF OTHER DISTRICT AGENCIES**

DDOT, in a memorandum dated April 24, 2012, indicated that it had no objections to the application.

**VII. COMMUNITY COMMENTS**

ANC6B, at its regularly scheduled meeting of April 10, 2012, voted to support the application subject to the following list of conditions:

1. The Applicant shall maintain the existing concrete masonry building, which helps to absorb sound, and shall also utilize industry standard flooring sealants to help eliminate bacteria and minimize odors by preventing waste from penetrating into the concrete floor.
2. The Applicant shall place all solid animal waste from both indoor and outdoor areas in biodegradable bags and enclosed waste disposal containers. The Applicant shall utilize a qualified waste disposal company to collect and dispose of all animal waste 3 times per week.
3. The Applicant will wash all indoor floors with a water/chemical mixture that breaks down urine odor and the liquid mixture will be captured by a drainage system.
4. The Applicant shall control odor by installing HEPA filtration systems for all air conditioner units in all daycare areas throughout the building. The units and vents shall be maintained and cleaned by a professional company.
5. With respect to the outdoor training area located in the parking lot adjacent to M Street S.E. as depicted in the plans submitted with the BZA application: (1) no animals shall be permitted in the outdoor training area between the hours of 5:00p.m. and 9:00 a.m.; (2) the outdoor training area shall be enclosed with fencing having a minimum height of 8 feet and constructed of solid or opaque materials with noise absorbing characteristics; (3) no more than 3 animals shall be permitted within the outdoor training area at a time and a staff member will be present whenever animals are in the outdoor training area; (4) the only entrance to the outdoor training area shall be from within the building; (5) the outdoor training area will measure approximately 19 feet in width by approximately 26 feet in length; (6) the outdoor training area will be washed daily with a water/chemical mixture that

breaks down urine odor; and (7) the liquid mixture used to clean the outdoor training area will be captured in a way that prevents its flow onto public space.

6. The Applicant will encourage all customers to park in the lot adjacent to M Street S.E. or use its "Valet Barking" service when dropping off animals at the 9<sup>th</sup> Street entrance. The Applicant will discourage customers from parking along neighborhood streets, particularly Potomac Avenue S.E. and 10<sup>th</sup> Street S.E., through verbal and written messages.
7. The Applicant agrees to create, within sixty (60) days of the issuance of a BZA Order to approve the application for the proposed WagTime location at 900 M Street, S.E., an on-going Liaison Committee to address any neighborhood concerns regarding the operation of the site. The Liaison Committee shall be composed of a representative from the Applicant and a neighborhood representative selected by Kirsten Oldenburg, the Single Member District Commissioner for Advisory Neighborhood Commission 6B04. Both the Applicant and Commissioner Oldenburg have the right to change their designated representatives upon written notice to the other party. The Applicant's representative to the Liaison Committee is Lisa Schreiber, whose current telephone number is (202) 498-9664 and current email is [lwagtime@aol.com](mailto:lwagtime@aol.com). The operations of the facility will be reviewed by the Liaison Committee no less than 6 months and 1 year from the effective date of the Certificate of Occupancy issued as result of the BZA Order approving the application.

The Capitol Hill Restoration Society, at its meeting of April 12, 2012, voted to support the application subject to the same list of conditions as the ANC.

Attachment: Location Map

